
**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

MICHAEL VER HAGEN d/b/a DATA
DESIGN,

Plaintiff,

v.

BENETEK INC.,

Defendant.

Case No. 22-CV-1245-JPS

JUDGMENT

Jury Verdict. This action came before the Court, presided over by the Honorable J.P. Stadtmueller, for a trial by jury. The issues having been tried and the jury rendered a special verdict (ECF No. 98) on May 22, 2024; and the Court having considered the parties' motions in limine (ECF No. 84) and Defendant BeneTek, Inc.'s motion for a directed verdict (ECF No. 96):

IT IS ORDERED AND ADJUDGED that the parties' stipulation of dismissal (ECF No. 15) be and the same is hereby **ADOPTED**; Plaintiff Michael Ver Hagen d/b/a Data Design's claim for willful copyright infringement be and the same is hereby **DISMISSED without prejudice** (ECF No. 16);

IT IS FURTHER ORDERED AND ADJUDGED that Plaintiff Michael Ver Hagen d/b/a Data Design's first, second, and fourth motions in limine (ECF Nos. 40, 41, and 43) be and the same are hereby **GRANTED**; Defendant BeneTek, Inc.'s counterclaim for breach of the implied warranties of merchantability and fitness for a particular purpose (ECF No. 12 at 10–11) and counterclaim for professional negligence (ECF No. 12 at 10) be and the same are hereby **DISMISSED with prejudice** (ECF No. 84);

IT IS FURTHER ORDERED AND ADJUDGED that Defendant BeneTek, Inc.'s motion for a directed verdict as to Plaintiff Michael Ver

Hagen d/b/a Data Design's copyright infringement claim be and the same is hereby **GRANTED**; as a matter of law the royalty payment provision was a covenant, not a condition, such that the failure to pay royalties owed did not automatically effect a rescission of the license (ECF No. 96);

IT IS FURTHER ORDERED AND ADJUDGED that Defendant BeneTek, Inc. did not breach the parties' contract (ECF No. 98);

IT IS FURTHER ORDERED AND ADJUDGED that Plaintiff Michael Ver Hagen d/b/a Data Design did breach the parties' contract (ECF No. 98);

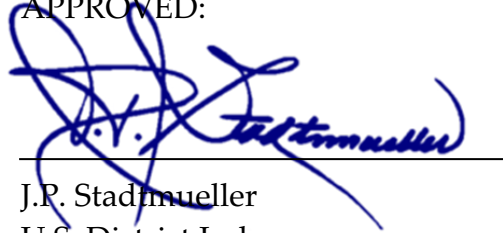
IT IS FURTHER ORDERED AND ADJUDGED that Plaintiff Michael Ver Hagen d/b/a Data Design's breach of contract did cause Defendant BeneTek, Inc. to incur damages (ECF No. 98);

IT IS FURTHER ORDERED AND ADJUDGED that Defendant BeneTek, Inc. did not materially breach the contract, thereby excusing Plaintiff Michael Ver Hagen d/b/a Data Design's performance (ECF No. 98);

IT IS FURTHER ORDERED AND ADJUDGED that Defendant BeneTek, Inc. shall have and recover from Plaintiff Michael Ver Hagen d/b/a Data Design the sum of \$31,000.00 for Plaintiff's breach of contract (ECF No. 98); and

IT IS FURTHER ORDERED AND ADJUDGED that this action be and the same is hereby **TERMINATED**.

APPROVED:



J.P. Stadtmueller
U.S. District Judge

GINA M. COLLETTI
Clerk of Court
s/ Jodi L. Malek

By: Deputy Clerk

May 30, 2024

Date